

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1260**

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**Introduced by Assembly Member Caballero**

February 23, 2007

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~~An act to add Sections 53755 and 53756 to the Government Code, relating to local government.~~*An act to add Section 53755 to the Government Code, relating to local government.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1260, as amended, Caballero. ~~Local governments~~ *government*: taxes, fees, assessments, and charges: notice.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Article XIII C and Article XIII D of the California Constitution.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution.

This bill would authorize the agency providing the property-related service to a parcel to provide the required notice of a proposed increase of an existing fee or charge in the agency's regular billing statement or any other mailing by the agency to the address at which the agency

customarily mails the billing statement for the fee or charge. The bill would also authorize the agency providing the property-related service to a parcel to provide the required notice of a proposed new fee or charge ~~to be mailed to the address at which the service funded by the proposed fee or charge will be provided, or~~ in the manner authorized for notice of a proposed increased fee or charge where the agency is ~~provided~~ *providing* an existing property-related service to the address. The bill would require the agency, if the agency desires to preserve any authority it may have, to record or enforce a lien on the parcel to which service is provided, to also mail notice to the recordowner's address shown on the last equalized assessment ~~role~~ *roll*, if that address is different than the billing or service address. The bill would also authorize any agency that bills, collects, and remits a fee or charge on behalf of another agency to provide notice on behalf of the other agency, as specified.

The bill would allow one written protest per parcel, as specified, to be counted in calculating a majority protest to a proposed new or increased fee or charge subject to Section 6 of Article XIII D of the California Constitution.

~~This bill would also impose a 120-day limit on the commencement of a judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or charge, or increasing an existing fee or charge, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 53755 is added to the Government Code,  
2     to read:  
3     53755. (a) (1) The notice required by paragraph (1) of  
4     subdivision (a) of Section 6 of Article XIII D of the California  
5     Constitution of a proposed increase of an existing fee or charge  
6     for a property-related service being provided to a parcel may be  
7     given by including it in the agency's regular billing statement for  
8     the fee or charge or by any other mailing by the agency to the  
9     address to which the agency customarily mails the billing statement  
10    for the fee or charge.  
11    (2) The notice required by paragraph (1) of subdivision (a) of  
12    Section 6 of Article XIII D of the California Constitution of a  
13    ~~proposed new fee or charge may be mailed to the address at which~~

1 ~~the property-related service funded by the fee or charge will be~~  
2 ~~provided or may be given in the manner authorized for notice of~~  
3 ~~proposed new fee or charge may be given in the manner authorized~~  
4 ~~for notice of~~ an increase of a fee or charge if the agency is currently  
5 providing an existing property-related service to the address.

6 (3) If the agency desires to preserve any authority it may have  
7 to record or enforce a lien on the parcel to which service is  
8 provided, the agency shall also mail notice to the recordowner's  
9 address shown on the last equalized assessment ~~role~~ *roll* if that  
10 address is different than the billing or service address.

11 (b) One written protest per parcel, filed by ~~any~~ *an* owner or  
12 tenant of the parcel, shall be counted in calculating a majority  
13 protest to a proposed new or increased fee or charge subject to the  
14 requirements of Section 6 of Article XIII D of the California  
15 Constitution.

16 (c) Any agency that bills, collects, and remits a fee or charge  
17 on behalf of another agency may provide the notice required by  
18 Section 6 of Article XIII D of the California Constitution on behalf  
19 of the other agency.

20 ~~SEC. 2. Section 53756 is added to the Government Code, to~~  
21 ~~read:~~

22 ~~53756. (a) Any judicial action or proceeding to attack, review,~~  
23 ~~set aside, void, or annul an ordinance, resolution, or motion~~  
24 ~~adopting a new fee or charge, or increasing an existing fee or~~  
25 ~~charge subject to Section 6 of Article XIII D of the California~~  
26 ~~Constitution, including a challenge to any provision of an~~  
27 ~~ordinance, resolution, or motion that increases a fee or charge~~  
28 ~~without further action of the governing body of the agency, shall~~  
29 ~~be commenced within 120 days of the effective date of the~~  
30 ~~ordinance, resolution, or motion.~~

31 ~~(b) Any action by a local agency or interested person under this~~  
32 ~~section shall be brought pursuant to Chapter 9 (commencing with~~  
33 ~~Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.~~

34 ~~(c) This section shall not apply to any fee or charge for which~~  
35 ~~another statute, other than Section 338 of the Code of Civil~~  
36 ~~Procedure, establishes a shorter time for judicial challenge.~~

- 1     ~~(d) This section shall not be construed to excuse compliance~~
- 2     ~~with state or local laws regulating claims for refunds of any fee or~~
- 3     ~~charge claimed or determined to be invalid.~~

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